

ORIGINAL

INDIANA UTILITY REGULATORY COMMISSION

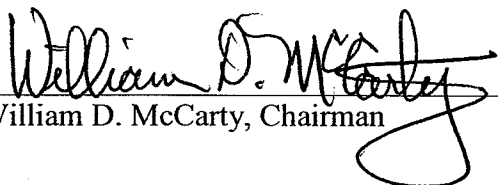
Approval of Adoption of Rule 170 IAC 6-1.1

LSA Document #04-268(F)

IURC RM 04-04

Upon prior publication of notice, and public hearing having been held on March 22, 2005, at 9:30 a.m., EST, as required by the provisions of I.C. 4-22-2-1, *et seq.*, the Indiana Utility Regulatory Commission, on June 29, 2005, at 1:30 p.m., EST in Room E306, Indiana Government Center-South, Indianapolis, Indiana at which time a majority of members of said Commission were present, adopted the foregoing rule.

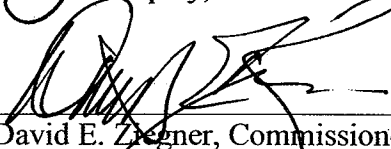
The Secretary is hereby directed to submit five (5) copies of the aforesaid rules to the Attorney General of Indiana, for his approval of same, and thereafter file one (1) duplicate approved copy with the Secretary of State.

  
William D. McCarty, Chairman

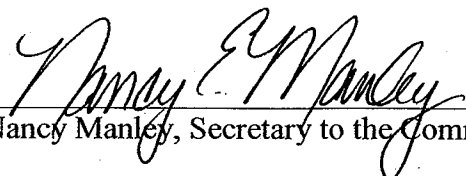
  
David Hadley, Commissioner

  
Larry Landis, Commissioner

  
Judith G. Ripley, Commissioner

  
David E. Ziegner, Commissioner

ATTEST:

  
Nancy Manley, Secretary to the Commission

Date:

JUN 29 2005

**TITLE 170 INDIANA UTILITY REGULATORY  
COMMISSION**

**Final Rule**  
LSA Document #04-268(F)

**DIGEST**

Adds 170 IAC 6-1.1 to create new rules governing distribution system improvement charges (DSIC) allowed for water utilities under IC 8-1-31. Effective 30 days after filing with the secretary of state.

**170 IAC 6-1.1**

SECTION 1. 170 IAC 6-1.1 IS ADDED TO READ AS FOLLOWS:

**Rule 1.1. Distribution System Improvement Charges (DSIC)**

**170 IAC 6-1.1-1 Definitions**

**Authority:** IC 8-1-1-3; IC 8-1-31-17

**Affected:** IC 8-1-2; IC 8-1.5-3-8

**Sec. 1. (a)** The definitions in this section apply throughout this rule.

(b) "Commission" means the Indiana utility regulatory commission.

(c) "Distribution system" means:

- (1) distribution mains;
- (2) valves;
- (3) hydrants;
- (4) service lines;
- (5) meters;
- (6) meter installation;
- (7) and other appurtenances; necessary to transport treated water from the point it exits the treatment facility to the point at which it is delivered to the customer.

(d) "Distribution system improvement charges" or "DSIC" means a distribution system improvement charge approved under IC 8-1-31.

(e) "DSIC costs" means depreciation expenses and the pretax return associated with eligible distribution system improvements.

(f) "DSIC revenues" means utility revenues produced through a DSIC exclusive of revenues from all other rates and charges.

(g) "Eligible distribution system improvements" means new used and useful water utility plant projects that:

- (1) do not increase revenues by connecting the distribution system to new customers;
- (2) are in service; and
- (3) were not included in the utility's rate base in its most recent general rate case.

(h) "Utility" means every public or municipally-owned utility.

(i) "Public utility" means every:

- (1) corporation;
- (2) company;
- (3) partnership;
- (4) limited liability company;

(5) individual; or  
(6) association of individuals  
or their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the state for the production, delivery, or furnishing of water.

(j) "Municipally-owned utility" includes every utility owned or operated by a municipality.

(k) "Pretax return" means the following:

(1) For investor-owned utilities the revenue necessary to:

(A) produce net operating income equal to the utility's weighted cost of capital multiplied by the original cost of eligible distribution system improvements; and

(B) pay any state and federal income taxes applicable to such income.

(2) "Pretax return" for a municipally-owned utility:

(A) the average annual debt service associated with the distribution system improvement; or

(B) the return on plant under IC 8-1.5-3-8 granted in its most recent rate case computed by multiplying the authorized return times the cost of eligible distribution system improvement.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-1)*

#### **170 IAC 6-1.1-2 Applicability and scope**

Authority: IC 8-1-31-8

Affected: IC 8-1-2; IC 8-1-31

Sec. 2. (a) This rule applies to any utility that may now or hereafter be engaged in providing water service, subject to the jurisdiction of the commission.

(b) This rule shall in no way prohibit the recovery by a utility of costs that meet the statutory criteria of IC 8-1-31 et seq., including costs not otherwise included under Account 331, 333, 334, or 335 of the National Association of Regulatory Utility Commissioners' Uniform System of Accounts for Water Utilities, provided that the costs for which recovery is requested were incurred in a project within the utility's existing distribution system and not in projects that connect to new customers.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-2)*

#### **170 IAC 6-1.1-3 Exemption**

Authority: IC 8-1-31-8

Affected: IC 8-1-2; IC 8-1-31

Sec. 3. A utility may not file a petition under this rule in the same calendar year in which the utility has filed a request for a general increase in the basic rates and charges of the utility. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-3)*

#### **170 IAC 6-1.1-4 Filing**

Authority: IC 8-1-31-8

Affected: IC 8-1-2; IC 8-1-31

Sec. 4. (a) The utility shall file with the commission rate schedules establishing a DSIC that will allow the automatic adjustment of the utility's basic rates and charges to provide for recovery of DSIC costs. Any petition filed to initiate a DSIC proceeding, which shall be deemed the utility's case-in-chief, shall include as attachments any:

(1) schedules;

(2) forms;

(3) testimony;

(4) exhibits; or

(5) other required supporting documentation;

as provided in section 5 of this rule.

(b) The utility shall serve the office of the utility consumer counselor a copy of its filing at the time

of its filing with the commission. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.1-4*)

**170 IAC 6-1.1-5 Required supporting documentation**

**Authority:** IC 8-1-31-8

**Affected:** IC 8-1-2-49; IC 8-1-31

**Sec. 5. (a)** The utility shall submit the following supporting documentation for its petition to the commission:

- (1) A description of the DSIC project, an explanation of why the project is needed, the benefits resulting to the utility and its customers upon completion of the project, and the age of the plant that was retired.
- (2) A statement that the project is in service and was not included in the utility's rate base in its most recent general rate case. Provide the cause number and date of the utility's most recent rate order.
- (3) A statement that the project will not result in an increase in revenue resulting from the connection of new customers to the utility's distribution system.
- (4) A statement that all necessary local, state, and federal permits, approvals, and authorizations applicable to the DSIC project have been obtained.
- (5) A statement regarding whether any affiliate (as defined by IC 8-1-2-49) was directly or indirectly engaged by the utility in connection with the installation of the infrastructure that is the subject of the proposed DSIC and a copy of any such affiliated interest contract.
- (6) A statement regarding whether the utility plans to replace other distribution infrastructure in the next five (5) years and a general outline of any such plans.
- (7) A new tariff reflecting the requested DSIC in the same format as the existing tariff on file with the commission, with clear denotations on all schedules where the DSIC rate is applicable.
- (8) A statement that the utility:
  - (A) has invoices and other cost support for every item included in the project cost form; and
  - (B) is prepared to file such invoices if required by the commission or requested by the office of utility consumer counselor.
- (9) An affidavit from an officer of the utility attesting to the veracity of the statements and information submitted under this subsection.
- (10) When the petition constitutes an application to change an existing DSIC, a statement describing how the utility will satisfy any outstanding reconciliation requirement for its current DSIC.
- (11) A statement that the project costs, for which recovery is sought, represent an investment by the utility and not another funding source such as a grant, developer contribution or transportation department reimbursement.
- (12) If the applicant is seeking debt service, a statement including the cause number that the applicant has previously obtained IURC approval to issue the long term debt.

**(b)** By submitting documentation in compliance with subsection (a), the utility makes a prima facie case for the eligibility of the improvements and the reasonableness of the charges.

(*Indiana Utility Regulatory Commission; 170 IAC 6-1.1-5*)

**170 IAC 6-1.1-6 Response**

**Authority:** IC 8-1-31-8

**Affected:** IC 8-1-2; IC 8-1-31

**Sec. 6. (a)** The office of utility consumer counselor or other intervening party may submit a report to the commission indicating its opposition to or support of each portion of the petition within thirty (30) days after the petition is filed. The filing utility may then file its rebuttal within seven (7) days. The office of utility consumer counselor may examine information of the utility to determine whether:

- (1) the system improvements are in accordance with the requirements of section 1(f) of this rule; and
- (2) the utility properly calculated the proposed charges.

(b) For purposes of discovery, the period for responses shall be four (4) business days instead of ten (10) days. The remaining provisions of 170 IAC 1-1.1-16 shall apply.  
*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-6)*

**170 IAC 6-1.1-7 Hearing and order**

**Authority:** IC 8-1-31-9

**Affected:** IC 8-1-2; IC 8-1-31

**Sec. 7. (a)** Except as provided in subsection (b) or for good cause shown, the commission shall hold the hearing and issue its order not later than sixty (60) days after the petition is filed.

(b) If, subsequent to the filing of its petition, the utility files additional testimony or exhibits, other than rebuttal, to supplement its case-in-chief, or for good cause shown, the commission may reset the sixty (60) day hearing deadline established in subsection (a) of this section. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-7)*

**170 IAC 6-1.1-8 Reconciliation procedure**

**Authority:** IC 8-1-31-9

**Affected:** IC 8-1-2; IC 8-1-31

**Sec. 8. (a)** Any utility authorized to implement a DSIC shall file with the Commission, no later than thirty (30) days after the expiration of each twelve (12) month period in which the DSIC rate was in effect, a report that reconciles the difference between the DSIC revenues and the DSIC costs. The utility shall serve a copy of the report simultaneously on the office of the utility consumer counselor. Within fifteen (15) days of service, the office of the utility consumer counselor shall submit its comments to the Commission and serve a copy on the utility. Upon review of the utility's report and the office of utility consumer counselor's comments, the Commission may, at its discretion, convene a hearing after notice to adjust the DSIC to reconcile over recovery or under recovery of the underlying DSIC costs.

(b) In the event the utility is later authorized to change its DSIC, then the annual reconciliation shall be twelve (12) months following the authorization of the change in the DSIC, with the first reconciliation also covering the period between the last reconciliation of the previously approved DSIC and authorization to change the DSIC (the "Interim Period"). Reconciliation for the Interim Period shall use the DSIC revenues and DSIC costs associated with the DSIC in effect at the time.  
*(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-8)*

Approval of the Adoption of Rule

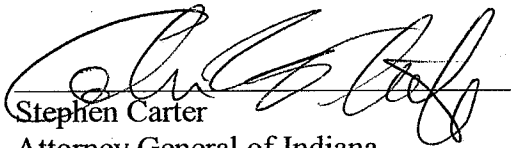
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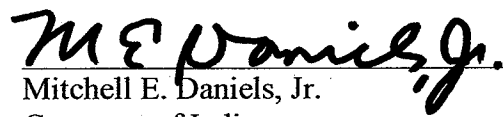
Approved as to legality,

today: 8/9/05

  
Stephen Carter  
Attorney General of Indiana

Approved,

today: 9/9/2005

  
Mitchell E. Daniels, Jr.  
Governor of Indiana

Filed, today:

9/27/2005



Todd Rokita  
Secretary of State



8:45 AM